IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

Writ Petition No.3587 of 2007.

[M/s Brahamaputra Consortium Ltd.]
Vs.
[Western Coalfileds Limited and others]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. **Court's or Judge's orders**

Shri MV Samarth, Advocate for the petitioner.
Shri S. C. Mehadia Advocate for R-1 to 3.
Shri V. V. Bhangde, Advocate for R-4.

Coram: A. H. JOSHI AND
R. C. CHAVAN, JJ.
Dated : 27th AUGUST, 2007

1. Heard.

2. The respondents no.1 to 3 tendered reply in the Court.

3. According to the petitioner, the offer submitted by the respondent no.4 is liable to be regarded as 'non responsive' tenderer, and his offer is liable to be rejected, and thereupon, the petitioner would be the offerer whose offer is the lowest.

4. Learned Advocate for the

petitioner has placed reliance on the tender documents submitted by the respondent no.4, and has pointed out from page 82 of the Paper book, which is a part of tender documents submitted by the respondent no.2 that the Respondent N0.4 has given the quantity in column no.2, however, rates and approximate cumulative value to be given in column No.3 & 4 therein, has not been given, and these columns are left blank.

5. These facts of Column No.3 & 4 being left blank are not disputed by the respondents.

6. In reply, the respondent Nos. 1 & 4 have urged that :-

(a) This discrepancy does not vitiate the offer nor does it does not in any manner vitiate the tender/offer document, since the rate and total value required to be given in these columns is given by the respondent no.4 at other places provided for in the tender document, leaving no room for ambiguity leading to a deficiency in

the offer.

(b) The tender document is otherwise complete in all respects, therefore, does not render the tender documents submitted by the respondent no.4 to be 'non responsive'.

(c) The rates, and quantities can very well be quoted including the approximate value at page 11.

(d) In view of this, there would be no difficulty in arriving at the proper rates and price which was required to be given in column No.3 & 4 at page N0.82.

7. The petitioner is not able to demonstrate from the tender documents as to whether the term 'non responsive', and the offer of the petitioner falls in this definition if given.

8. The objection raised by the petitioner is in relation to the nature of furnishing the information, and even the petitioner is not able to dispute that the submission of tender documents by the respondent no.4 did not admit

any ambiguity.

9. Apprehension that blank tender documents could be lateron filled to benefit the respondent No.4, appears to us to be a fictional objection, particularly when those details are otherwise available.

10. It is quite obvious that if the respondent no.4 is out of fray on any technical objection, the petitioner may be the next lowest tenderer, and he is, therefore, interested in contesting the validity of the offer of Respondent no.4.

11. Learned Advocate for the petitioner on the reported Judgment in ***Ramana V. The International Airport Authority of India and others*** does not help the petitioner.

12. We see that the petitioner has not made out a case for interference. We, therefore, dismiss the petition.

JUDGE **JUDGE**

Sbm